

DECISION

1804/1 Mosher
PLM II
THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-199525

[Claim for] DATE: May 6, 1981

MATTER OF: William B. Hendricks - Temporary duty and
change of station allowances]

- DIGEST: 1. An employee whose dependents reside with him in a leased apartment at temporary duty location may not be denied actual subsistence expenses merely because he does not maintain residence at permanent duty station. Rent may be reimbursed as a cost of lodging without reduction for fact that apartment was larger than employee alone needed. Costs of rental furniture not in excess of employee's own needs may be reimbursed as cost of lodging.
2. Where dependents had resided with employee at the temporary duty site but were living elsewhere at date employee was notified of transfer to temporary duty location, the employee is entitled to be reimbursed for their transportation to new duty station in an amount not to exceed the cost of the dependents' transportation from the old to the new duty station. Similarly, expenses for transportation of household goods from place of storage may be reimbursed in amount not to exceed cost of transporting goods between old and new station.
3. Temporary quarters allowance may not be paid to an employee who, prior to transfer, had been detailed to area of new duty station where he and his family continued to occupy a rental apartment in which they had resided during detail. Neither the employee nor his family vacated residence in which they were residing at the time the transfer was authorized.

GAO was asked for
The accounting and finance officer of the Defense Contract Administration Services Region Atlanta, Defense Logistics Agency, requested [an advance decision on the claim] of William B. Hendricks [for certain travel expenses in connection with temporary duty (TDY) and change of permanent duty station (PCS)]. The questions raised concerning Mr. Hendricks' TDY entitlements relate

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to the fact that he did not maintain a residence at his permanent duty station but shared a rented apartment with his dependents while assigned to TDY in New Orleans. Those same circumstances give rise to the accounting and finance officer's doubt as to Mr. Hendricks' entitlement to travel, transportation, and temporary quarters subsistence expenses in connection with the subsequent designation of New Orleans as his permanent duty station.)

Prior to his assignment to TDY in New Orleans, Mr. Hendricks lived in rented quarters in St. James, Louisiana, his permanent duty station. At that time his dependents resided in Puerto Rico. On March 12, 1979, he was assigned to TDY in New Orleans and continued in a TDY status until New Orleans was changed to his permanent duty station on August 6, 1979.

Upon reporting to temporary duty, Mr. Hendricks moved into a motel, having relinquished his St. James residence. On April 1, 1979, he moved into a three-bedroom apartment for which he rented furnishings. From April 11 until mid-June, Mr. Hendricks shared the rented apartment with his dependents. From mid-June until August 6, Mr. Hendricks alone occupied the apartment while his dependents resided with friends in the St. James area. On August 6, 1979, Mr. Hendricks' dependents moved back into the rented apartment and in early September 1979 the family moved to their newly acquired residence in the New Orleans area. His household goods, which had been shipped from Puerto Rico at Mr. Hendricks' expense in May 1979, were moved from their place of storage in Vacheire, Louisiana, to the new residence at that time.

TDY Expenses

(Because New Orleans is a high-rate geographical area, Mr. Hendricks' claim for reimbursement for TDY-related expenses is submitted on an actual expense basis.) As lodging expenses he has claimed rent for the apartment and its furnishings. He has claimed itemized expenses for restaurant meals and commercial laundry throughout the period of his TDY assignment, including the 6- to 7-week period that he lived with his dependents.

(The finance and accounting officer's first three questions concern whether Mr. Hendricks is entitled to

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any reimbursement whatsoever for actual subsistence expenses in view of the fact that he did not maintain a residence at his permanent duty station while assigned to temporary duty in New Orleans.) He points to our decision, B-180111, March 20, 1974, as authority for the proposition that an employee who has no permanent residence at his permanent duty station is not entitled to per diem while on temporary duty.

Although our holding in B-180111 indicates that an agency has authority to refuse to authorize per diem or actual subsistence expenses where an employee incurs no additional expense as a result of his TDY assignment, that decision is not pertinent in that Mr. Hendricks was authorized such expenses for his TDY assignment in New Orleans. His orders may not be retroactively amended to increase or decrease his travel entitlement. 55 Comp. Gen. 1241 (1976).

In James H. Quiggle, B-192435, June 7, 1973, we considered facts similar to those here involved. That case involved an employee on extended temporary duty in St. Louis who terminated his rental agreement at Kansas City, his permanent duty station. The employee first rented an apartment and ultimately purchased a house in St. Louis so that he could reside with his dependents. In upholding the employee's entitlement to per diem we stated:

"* * * [the fact that he terminated his rental lodging] in Kansas City [during the period of his temporary duty assignment and relocated his household goods and family to the temporary duty site does not defeat his entitlement to lodging costs in connection with his occupancy] of the St. Louis residence.) * * *

Also see Nicholas G. Economy, B-188515, August 18, 1977.

(The) finance and accounting officer's (fourth question is whether the agency may determine a specific dollar amount to be paid when the amount claimed is obviously excessive.) While the precise basis for the determination that Mr. Hendricks' claim is excessive is not stated,

[documentation accompanying the submission suggests that the lodgings portion of his claim is considered unreasonable in that the three-bedroom apartment was larger and its furnishings more extensive than required by one individual. That documentation also suggests that his claim for meals and laundry is viewed as excessive in light of the fact that the apartment had laundry and kitchen facilities and because he lived with his dependents for part of his TDY assignment.]

Whether on per diem or actual subsistence expenses, [an employee on TDY may rent an apartment rather than stay in a motel and he may be reimbursed for the apartment rental cost as well as costs of renting furniture.] See 52 Comp. Gen. 730 (1973), 56 *id.* 40 (1976), and Volume 2 of the Joint Travel Regulations (2 JTR) paras. C455202j (change 166) and C4611-2 (change 145). In that situation, [we have not limited or reduced reimbursement on the basis that the residence is larger than necessary for one individual or that dependents resided with the employee. The statutory and regulatory limits on per diem and actual subsistence expenses serve to assure the reasonableness of the amounts reimbursed. Since Mr. Hendricks has modified his claim to exclude rental charges for furnishings in excess of his own needs, we see no basis to object to reimbursement for the lodging costs claimed.]

The agency does not challenge Mr. Hendricks' claim that he in fact incurred the meal and laundry expenses claimed. [Unless the agency is prepared to challenge the accuracy of the employee's claim, there is no basis to deny reimbursement for the amounts claimed to the extent they are within the allowable maximum reimbursement.] In that connection [we note that no single expenditure is exorbitant so as to bring the case within the rule in Norma J. Kephart, B-186078, October 12, 1976, in which we held that an agency should reimburse only reasonable expenses for meals where an employee claimed and in fact incurred exorbitant amounts for meals.]

PCS Expenses

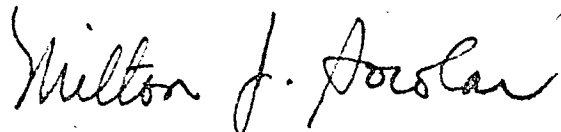
The finance and accounting officer's fifth question concerns Mr. Hendricks' entitlement to reimbursement for the expense of shipping his household goods from their place of storage to his new duty station in view of the

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commercial sources to be occupied temporarily by the employee and/or members of his immediate family who have vacated the residence quarters in which they were residing at the time the transfer was authorized."

In our decision B-176531, March 12, 1973, we considered that particular statutory language in the context of a situation very similar to this case. In that case, the employee had been detailed to San Francisco on July 1, 1969, and remained so detailed until he was ultimately transferred there on a permanent basis on July 31, 1971. At the date of his transfer he was residing in San Francisco in the rented apartment in which he had been living for some time and continued to live there during the period for which he claimed temporary quarters expenses. We held that under the language of the above regulations the employee was not entitled to temporary quarters expenses inasmuch as he had not vacated the residence quarters in which he was residing at the time of transfer. [Mr. Hendricks continued to live in the New Orleans apartment after notification of transfer and his dependents merely discontinued their stay with friends. Since neither can be said to have vacated a residence in which they were residing at the time transfer was authorized, we agree with the finance and accounting officer's determination that Mr. Hendricks is not entitled to payment of temporary quarters expenses for the month of August 1979. See also B-179583, July 31, 1974.

[The claim of Mr. Hendricks should be processed consistent with the determinations made in this decision.]



Acting Comptroller General
of the United States